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10/673,637	09/29/2003	Darrell Pastuch	092903	1160

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EXAMINER

ESTRADA, ANGEL R

ART UNIT PAPER NUMBER

2831

DATE MAILED: 05/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,637

Applicant(s)

PASTUCH, DARRELL

Examiner

Angel R. Estrada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 1,5-8,10 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 2-4,9 and 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 09/29/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Oath/Declaration

1. The oath or declaration has not been signed by the inventor.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the a) The electrical junction box connected to said first end of said inner sheath portion and an electrical fixture disposed at said second end portion of said inner sheath portion (claims 3, 9 and 11) and b) The electrical junction box being in a subterranean location, and the electrical fixture being a lighting fixture (claim 4), must be shown or the feature(s) canceled from the claim(s).. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities:

In page 5, there is no brief description of figures 4 and 5. Appropriate correction is required.

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4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc (**In line 2, "comprising"**)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-8, 10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Angelis, Sr. et al (US 5,626,418, hereinafter Angelis).

Regarding claim 1, Angelis discloses a device useful for supporting electrical fixtures (see figure 1) which comprises: a spring means (34) comprising a coil of wire (see figure 1), wherein said spring means (34) has an outer diameter, an inner diameter, a first end portion, a second end portion and a length dimension (see figures 1-3), and wherein said spring means (34) defines a cylindrically shaped space in its interior (see figure 3); and a tubular inner sheath portion (30,32) having a first end portion, a second end portion, a length dimension, an inner diameter and an outer diameter (see figures 1-3), wherein the outer diameter of said sheath portion (30,32) is smaller than the inner diameter of the spring means (34), and wherein said sheath portion (30,32) is disposed within the cylindrical space within said spring means (34),; but Angelis lacks said length dimension of said flexible inner sheath portion (30,32) being longer than said length dimension of said spring means (34). It would have been an obvious matter of design choice to make the length dimensioned of said flexible inner sheath longer than said length dimensioned ~~of~~ of said spring means, since such a *OR 4/30/04* modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re. Rose, 105 USPQ 237 (CCPA 1955).

Regarding claim 5, Angelis discloses the device (see figure 1) wherein at least one of said first end portion (30) or said second end portion of said sheath portion (see figure 1) includes threads (46, see figure 3).

Regarding claim 6, Angelis discloses the device (see figure 1) wherein said threads (46) are selected from the group consisting of: male threads and female threads (see figure 3).

Regarding claim 7, Angelis discloses the device (see figure 1) wherein both of said first end portion (30) and said second end portion (32) of said sheath portion (see figure 1) comprise threads (46) selected from the group consisting of: male threads and female threads (see figure 3).

Regarding claim 8, Angelis discloses the device (see figure 1) wherein said spring means (34) is rigidly affixed to at least one of said first end portion (30) or said second end portion (32) of said sheath portion (see figure 3).

Regarding claim 10, Angelis discloses the device (see figure 3) wherein said spring means (34) is rigidly affixed to both of said first end portion (30) and said second end portion (32) of said sheath portion (see figure 3).

Regarding claim 12, Angelis discloses the device (see figure 1) wherein each of said first end portion (30) and said second end portion (32) of said sheath portion are smooth (1, 3 and 6).

Regarding claim 13, Angelis discloses the device (see figure 1) wherein said wire (34) is spring steel (column 4 lines 11-12).

Regarding claim 14, Angelis discloses the device (see figure 1) wherein said first and said second end portions of said inner sheath portion (30,32) are metallic being comprised of an alloy of iron including steels and the like (ccolumn 5 lines 3-10)

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Regarding claim 15, Angelis discloses the device (see figure 1) wherein said first and said second end portions of said inner sheath portion (30,32) are made from a polymeric material such as a polyolefin, polyurethane, or other organic polymer known in the art (column 4 lines 7-8).

Allowable Subject Matter

6. Claims 16 and 17 are allowed.

The following is an examiner's statement of reasons for allowance: The primary reasons for the indication of the allowability of claims 16 and 17 are:

Regarding claims 16 and 17, the prior art does not teach or fairly suggest in combination with the other claimed features an arrangement fixture post having a first end portion connected to an electrical junction box.

These limitations were found in claims 2-4, 9 and 11, and are neither disclosed nor taught by the prior art of record, alone or in combination.

7. Claims 2-4, 9 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The primary reason for the indication of the allowability of claims 2-4, 9 and 11 are:

Regarding claim 2, the prior art does not teach or fairly suggest in combination with the other claimed features the device comprising an electrical junction box connected to said first end of said inner sheath portion

Regarding claims 3-4, the prior art does not teach or fairly suggest in combination with the other claimed features the device comprising an electrical junction box connected to said first end of said inner sheath portion

Regarding claim 9, the prior art does not teach or fairly suggest in combination with the other claimed features the device comprising an electrical junction box connected to said first end of said inner sheath portion.

Regarding claim 11, the prior art does not teach or fairly suggest in combination with the other claimed features the device comprising an electrical junction box connected to said first end of said inner sheath portion

These limitations were found in claims 2-4, 9 and 11, and are neither disclosed nor taught by the prior art of record, alone or in combination.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thomas (US 5,538,294), Chikama (US 5,520,222), Otsuka (US 6,092,555), Lalikos et al (US 4,854,416), Imes et al (US 6,508,277) and Morais (US 4,992,629) disclose a flexible electrical conduit.

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9. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Angel R. Estrada

April 29, 2004

 4/30/04
DEAN A. REICHARD
SUPERVISORY PATENT EXAMINER
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